

REMARKS

This Application has been carefully reviewed in light of the Office Action mailed November 1, 2005. Applicants cancel Claims 10, 16, 20 and 23 without prejudice or disclaimer. Applicants respectfully request reconsideration and favorable action in this case.

Section 102 Rejections

The Office Action rejects Claims 1-3, 8, 10, 14-16 and 23 under 35 U.S.C. §102(a) as being anticipated by U.S. Patent No. 5,014,299 issued to Klupt et al., ("Klupt"). The Office Action further rejects Claims 1-19 and 23-25 under 35 U.S.C. §102(e) as being anticipated by U.S. Publication No. 2002/0028521 for Sherlock ("Sherlock"). Applicants respectfully traverse these rejections for the reasons stated below.

Claim 1 is directed to a communication coupling including a port having first and second paths of communication. The coupling further comprises a switch that is coupled with the first communication port. The switch has a first position in which the port is operable to: (i) receive a first communication signal from a network component using the first path of communication; and (ii) transmit a second communication signal to the network component using the second path of communication. The switch also has a second position in which the port is operable to: (i) receive the first communication signal from the network component using the second path of communication; and (ii) transmit the second communication signal to the network component using the first path of communication.

Thus, in the first position of the switch, the port is operable to receive using the first path of communication and transmit using the second path of communication. In the second position of the switch, the port is operable to transmit using the first path of communication and receive using the second path of communication. Neither *Klupt* nor *Sherlock* disclose each of these limitations.

The Office Action relies upon switch 29 of *Klupt* as disclosing the switch of Claim 1. *See Office Action*, Page 3. However, switch 29 has two positions: (i) a voice communication mode; and (ii) a data communication mode. *See Klupt*, Column 2, lines 46-

54. In the voice communication mode the switch engages contacts C₁ and C₂. *See Klupt*, Column 4, lines 36-41, and FIGURE 4. In the second position of the switch (i.e., data communication mode) the switch engages contacts C₃ and C₄. *See Klupt*, Column 4, lines 49-54, and FIGURE 4. The position of switch 29 does not affect which path (of first and second paths) is used to receive and which is used to transmit.

The Office Action also relies upon switching circuitry 60 of *Sherlock* as disclosing the switch of Claim 1. *See Office Action*, Page 6. However, switch 64 of switching circuitry 60 includes two poles P1 and P2. P1 may be switched to either T1 or T2. Concurrently, P2 may be switched between either terminal T3 or T4. *See Sherlock*, Paragraph 0037 (lines 7-13). Thus, switching circuitry 60 is “operable to selectively switch to a first position to couple the circuitry for transmitting and the circuitry for receiving to the first pair of conductors, and to a second position to couple the circuitry for transmitting and the circuitry for receiving to the second pair of conductors.” *See Sherlock*, Abstract, lines 6-12. Neither the position of switch 64 nor the position of switching circuitry 60 affects which path (of first and second paths) is used to receive and which is used to transmit.

For at least these reasons, Applicants respectfully contend that neither *Klupt* nor *Sherlock* disclose each of the limitations of Claim 1. Applicants respectfully request that the rejections of Claim 1 be withdrawn.

Claims 2-9 each depend from Claim 1, and incorporate all of the limitations thereof. Thus, for the reasons discussed above with regard to Claim 1, Applicants respectfully contend that Claims 2-9 are not anticipated by *Klupt* or *Sherlock*.

Claim 11 is rewritten in independent format, but is otherwise unamended. Claim 11 is directed to a communication coupling that includes three communication ports and a filter. The first communication port includes first and second paths of communication with a network component, and receives a first communication signal from the network component. The first communication signal includes a first frequency band and a second frequency band, and the filter is operable to separate the first frequency band from the second frequency band. *Sherlock* does not disclose each of these limitations.

The Court of Appeals for the Federal Circuit has consistently adhered to the basic principle that a claim is only anticipated if each and every element as set forth in the claim is found (expressly or inherently) in a single prior art reference, AND “the elements must be arranged as required by the claim.” *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236. The Office Action fails to meet this burden with respect to the rejection of Claim 11 as being anticipated by *Sherlock*. Instead, the Office Action combines elements of FIGURE 1 with elements of FIGURES 5 and 6 to support the rejection of Claim 11. *See Office Action*, Pages 6-7 (rejection of previous Claim 10), and Page 8 (rejections of Claims 4 and 11). According to *Sherlock*, FIGURE 1 illustrates a “prior art telephone/DSL modem wiring system” (*See Sherlock*, Page 2, Paragraph 0010) and FIGURES 5 and 6 illustrate “embodiments [that] provide numerous advantages over the prior art.” *See Sherlock*, Page 8, Paragraph 0054. *Sherlock* does not disclose, teach or suggest that the prior art telephone/DSL modem wiring system of FIGURE 1 can or should be used with the embodiments disclosed in FIGURES 5 and 6.

More specifically, the Office Action relies upon the low pass filter LPF 14 of *Sherlock* (FIGURE 1) as disclosing the filter of Claim 11. *See Office Action*, Page 8 (referring to the rejection of Claims 4, 11, 17 and 24). However, LPF 14 is illustrated with reference to the prior art telephone/DSL modem wiring system of FIGURE 1. *Sherlock* does not disclose that low pass filter LPF 14 may be used in conjunction with *Sherlock*'s disclosure of FIGURES 4-8. Thus, the Office Action is simply picking and choosing elements of functionally unrelated components and systems disclosed in *Sherlock* to support the rejection of the present invention.

The Office Action suggests that FIGURES 1 and 5-6 collectively describe a system that discloses a communication coupling that includes three communication ports. According to the Office Action, network interface device 12 of FIGURE 1 is the first port, ADSL modem RJ11₁ of FIGURE 1 is the second port, and POTS telephone RJ11₂ is the third port. The Office Action later refers to the features and functionality of the DSL modem of FIGURE 5 as disclosing additional aspects of Claim 11. According to *Sherlock*, FIGURES 5 and 6 describe “embodiments [that] provide numerous advantages over the prior art telephone/DSL modem wiring system of FIGURE 1.” *See Sherlock*, Page 8, Paragraph 0054.

For at least these reasons, the Office Action fails to establish a *prima facie* case of anticipation regarding Claim 11. Applicants respectfully contend that *Sherlock* does not disclose each of the limitations of Claim 11.

Claims 12-15 each depend, either directly or indirectly, from amended Claim 11. Therefore, for at least those reasons discussed above with regard to Claim 11, Applicants respectfully contend that *Sherlock* does not anticipate Claims 12-15.

The Office Action also rejects Claims 14 and 15 as being anticipated by *Klupt*. Applicants respectfully contend that *Klupt* does not disclose, teach, or suggest at least the filter of Claims 14 and 15.

Claim 17 is rewritten in independent format, but is otherwise unamended. The Office Action rejects Claim 17 using the *Sherlock* reference. More specifically, the Office Action contends that “*Sherlock* teaches a method for distributing first and second communication signals shown in Figures 1, and 5-6.” *See Office Action*, Page 7. This rejection suffers from the same deficiency as the rejection of Claim 11 discussed above. The Office Action is using the teachings of *Sherlock* disclosed in FIGURES 5 and 6 and combining it with the teachings of prior art FIGURE 1. *Id.* Thus, the Office Action has failed to establish a *prima facie* case of anticipation of Claim 17. For at least these reasons, Applicants respectfully request that the rejection of Claim 17 be withdrawn.

Claims 18 and 19 each depend from Claim 17. Therefore, for at least those reasons discussed above with regard to Claim 17, Applicants respectfully contend that *Sherlock* does not anticipate Claims 18 and 19.

Claim 24 is rewritten in independent format to include all of the limitations of prior Claim 23. The Office Action rejects Claim 23 and contends that “Claim 23 is essentially similar to claim 16 and is rejected for the reasons stated above.” *See Office Action*, Page 7. As discussed above, Applicants respectfully contend that the Office Action impermissibly combined the teachings of various figures of *Sherlock* to arrive at the rejection of Claim 16. Thus, Applicants respectfully contend that the Office Action fails to establish a

prima facie case of anticipation regarding the rejection of Claim 24. Applicants contend further that *Sherlock* does not anticipate Claim 24.

Claim 25 depends from Claim 24. Therefore, for at least those reasons discussed above with regard to Claim 24, Applicants respectfully contend that the Office Action fails to establish a prima facie case of anticipation of Claim 25.

Section 103 Rejections

The Office Action rejects Claims 20-22 under 35 U.S.C. §103(a) as being unpatentable over *Sherlock* and in view of U.S. Patent No. 6,222,910 issued to Price et al., (“*Price*”). Applicants respectfully traverse these rejections for the reasons stated below.

Claim 21 is rewritten in independent format, but is otherwise unamended. The Office Action rejects Claim 21 with reference to *Sherlock*. More specifically, the Office Action contends that “*Sherlock* teaches a method for distributing first and second communication signals shown in FIGURES 1, and 5-6.” *See Office Action*, Page 11. As discussed above with regard to Claim 10, the Office Action is combining unrelated systems and components to arrive at this rejection. The “method” for distributing signals of FIGURE 1 is entirely independent of the “method” that is described with reference to FIGURES 5 and 6. Therefore, the Office Action fails to establish a *prima facie* case of obviousness with regard to Claim 21.

Claim 22 depends from Claim 21. Therefore, for at least those reasons discussed above with regard to Claim 21, Applicants respectfully contend that the Office Action fails to establish a *prima facie* case of obviousness of Claim 22.

Conclusions

Applicants have made an earnest attempt to place this case in condition for allowance. For the foregoing reasons, and for other apparent reasons, Applicants respectfully request full allowance of all pending Claims. If the Examiner feels that a telephone conference or an interview would advance prosecution of this Application in any manner, the undersigned attorney for Applicants stands ready to conduct such a conference at the convenience of the Examiner.

Applicants believe no fee is due. However, should there be a fee discrepancy, the Commissioner is hereby authorized to charge any required fees or credit any overpayments to Deposit Account No. **02-0384** of **Baker Botts L.L.P.**

Respectfully submitted,



Date: 1/31/06

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